S.B. CIVIL WRIT PETITION NO.5597/2005

Ram Chandra vs. Union of India & others.

Date : 21.9.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. A Changani, for the petitioner.

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Heard learned counsel for the petitioner.

According to learned counsel for the petitioner, the petitioner was paying regular bills in time and all of sudden, the respondents issued a bill of Rs.32,063/-, copy of which is placed as Annex.5. According to learned counsel for the petitioner, the bill contains the relevant dates which show that the supplementary bill has been issued by the respondents for the period running from 31.3.2004. According to learned counsel for the petitioner, therefore, the arrears have been demanded from the petitioner despite the petitioner having paid all the bills which the respondent issued to the petitioner. According to learned counsel for the petitioner, the petitioner demanded details of the calls on the basis of which the bill was issued but the details have not been provided to the petitioner, therefore, the petitioner cannot raise dispute before the Arbitrator. According to learned counsel for the petitioner, the dispute is required to be referred to Arbitrator.

Learned counsel for the petitioner relies on the

judgment of the Hon'ble Supreme Court delivered in the case of Union of India and another vs. Jagajit Industries and another reported in (1999) 4 SCC 506 and submits that the Supreme Court held that the Arbitrator should pass a speaking award, award with reasons and the petitioner without getting the details from the respondent cannot approach the arbitrator.

Since the petitioner's own case is that the matter can be settled by the arbitrator, therefore, the writ petition deserves to be dismissed solely on this ground.

So far as the scope of the arbitral proceedings and the manner in which the award can be passed is not at all subject matter and cannot be a subject matter in the writ petition as in this case, when even the arbitrator has not been appointed.

So far as non-supply of details of calls to the petitioner is concerned, that can be a ground to challenge the action of the respondents in addition to the grounds which the petitioner has. The petitioner may also take steps before the arbitrator, if he can get the appointment of the arbitrator, for getting the particulars of the calls on the basis of which the bill was issued by the respondents but for this purpose only rather for the purpose of collection of evidence for the petitioner, the writ petition cannot be entertained.

According to learned counsel for the petitioner, it is the duty of the respondents to supply details of the calls

but since this issue can also be decided by the arbitrator. No ground is made out for entertaining the writ petition.

In view of the above, I do not find any merit in the writ petition and the same is hereby dismissed.

However, the petitioner will be free to take steps in accordance with law for redressal of his grievance.

(PRAKASH TATIA), J.

S.Phophaliya